

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: July 20, 2021
RE: 21-481; 166 East Avenue

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 1E

Owner/Applicant: Cynthia Cook

Request: Establish a bed and breakfast (short-term rental) in one apartment of the existing duplex.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

Background Information:

The applicant is requesting approval to convert one unit in the existing duplex into a 2-bedroom bed and breakfast use (short term rental). The duplex was constructed in 1903, and is listed as a contributing resource on the State of Vermont Historic Register. No alterations are proposed to the structure nor the property.

Previous zoning actions for this property:

- **Zoning Permit;** enclose porch. Approved July 14, 1976.
- **Zoning Permit 12-1081CA;** replacement window. Approved May 21, 2012.
- **Zoning Permit 15-0468CA;** construct a three story rear addition with associated parking changes. Approved January 20, 2020. (Permit relinquished)
- **Non-Applicability of Zoning Permit 18-0934NA;** in-kind roof replacement on an outbuilding. Approved April 23, 2018.
- **Zoning Permit 21-0402CA;** replacement windows. Approved October 19, 2020.

Recommendation: Consent approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;

The conversion of a two-bedroom unit within the existing duplex to a bed and breakfast use (short term rental) will have no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant is advised to check with VT DEC as to whether a state wastewater permit is needed. **(Affirmative finding as conditioned)**

2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;

The property is located within the residential – low density zone. The east side of East Avenue is a residentially developed area consisting of single, two-family and multifamily dwelling unit structures. The University of Vermont and UVM Medical Center is located to the west of East Avenue. The subject rental will continue to serve as a place for people to stay, except that it will serve occupants on a short term basis rather than long term. City records indicate that this is the owner/applicant’s primary residence. **(Affirmative finding)**

3. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;

As noted above, the short term rental will continue to serve as a place for people to stay within the neighborhood, albeit on a short term basis. The short term rental is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(Affirmative finding)**

4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Little change in traffic is expected. The unit configuration remains unchanged. Rather than residents arriving and departing, short term guests will arrive and depart within established timeframes. Additionally, the property is within walking distance to transit stops. The property currently offers onsite parking that adequately handles the existing duplex parking and will be adequate for the proposed bed and breakfast use. **(Affirmative finding as conditioned)**

5. The utilization of renewable energy resources;

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

6. Any standards set forth in existing City bylaws and city and state ordinances;

The short term rental must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont. **(Affirmative finding as conditioned)**

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

The short term rental is not expected to produce adverse effects in need of mitigation.

(Affirmative finding)

2. Time limits for construction.

No construction timeline or phasing is included in this proposal. **(Affirmative finding)**

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.

The upstairs unit is the owner's full time residence, while the downstairs unit will be offered as a two-bedroom bed and breakfast rental moving forward. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances.

(Affirmative finding as conditioned)

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history.

The existing duplex is consistent with this intent. By allowing one of the two units to be rented on a short term, rather than a long term, basis, the impact to the neighborhood will effectively remain unchanged. The other unit will continue to be the property owner's full time residence.

Consistency with the intent of the zoning district will continue. **(Affirmative finding)**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Not applicable. No changes to the site or density is proposed.

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RL zone. Owner occupancy is required, and up to 3 rooms may be let. In this case, the applicant is the owner and lives onsite in the upstairs unit. The applicant proposes to rent out the two-bedroom, downstairs unit to short term guests. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

5. Uses

Not applicable.

6. Residential Development Bonuses

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Duplexes require 4 parking spaces (2 per unit) in the Neighborhood Parking District. Bed and Breakfasts require one parking space per room. The proposal will see one long term unit (2 spaces required) and one short term, two-room unit (2 spaces required). The four space parking requirement does not change as a result of this permit.

ZP15-0468CA (approved, but later relinquished) included an existing site plan that showed there to be a four space parking area with a smaller footprint than what exists today, which also met the minimum 5 ft side yard setback. The site plan included with this application, as well as current aerial photos, show a non-compliant parking area right up to the side yard property line (59’x 32’). The site plan will have to be revised to show the parking area as having a 5 ft setback, which would result in a dimension of 59’x 27’ and still adequate to accommodate 4 parking spaces. Additionally, the area within the 5 ft setback will need to be restored to lawn space. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the site plan shall be revised to show the parking area compliant with a 5 ft side yard setback.
2. **Prior to the issuance of a final certificate of occupancy**, all portions of the parking area located within the 5 ft side yard setback shall be seeded for and restored to lawn space.
3. The parking area shall be lined with a barrier (curb stop, granite curbing, fixed landscaping like anchored timbers, boulders or similar) to prevent parking lot creep.
4. The subject property must be, and remain, owner occupied as long as the bed and breakfast short term rental remains in operation.
5. The bed and breakfast must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
6. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
7. All guest parking shall be on-site and off-street.

8. A state wastewater permit may be required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
9. Any additional B&B room, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
10. The applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes and compliance with Division of Fire Safety standards and Health Department standards.
11. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
12. Standard permit conditions 1-15.